

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

██████████

Petitioner

v

File No. 127078-001

Guardian Life Insurance Company of America
Respondent

Issued and entered
this 8th day of June 2012
by Annette E. Flood
Chief Deputy Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 24, 2012, dentist ██████████ on behalf of her patient ██████████ (Petitioner), filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Petitioner has dental coverage through a group plan that is underwritten by Guardian Life Insurance Company of America (Guardian). The Commissioner notified Guardian of the external review request and asked for the information it used to make its final adverse determination. After a preliminary review of the material submitted the Commissioner accepted the case on May 1, 2012.

Because medical issues are involved, the Commissioner assigned the case to an independent review organization which provided its analysis and recommendation on May 15, 2012. (A copy of the complete report is provided to the parties with this order.)

II. FACTUAL BACKGROUND

On October 12, 2011, the Petitioner had a core buildup and crown placed on tooth #19. Guardian initially denied coverage for both services. The Petitioner appealed the denial through Guardian's internal grievance process. During the grievance process, Guardian approved

coverage for the crown but maintained its denial of coverage for the crown buildup. Guardian issued its final adverse determination April 5, 2012.

III. ISSUE

Did Guardian correctly deny coverage for Petitioner's crown buildup?

IV. ANALYSIS

Respondent's Argument

In its final adverse determination, Guardian wrote:

A licensed dentist has reviewed the clinical information submitted and determined that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, only or crown.

In a letter to the Commissioner dated April 26, 2012, Guardian further explained its denial:

Crown buildups are eligible for coverage in conjunction with an eligible crown and only when necessary due to substantial loss of natural tooth structure. Proof of loss must be substantiated through reviews of diagnostic x-rays and other supporting materials; reviews are performed by licensed dentists acting in a consultant capacity. Pre-treatment review is recommended for proposed treatment in excess of \$300 to ensure that all parties are aware of the projected available plan benefits and associated patient liability.

[Petitioner's] claim has been reviewed on three separate occasions, once in response to a treatment estimate submission and twice for completed treatment. Based on review of the clinical information provided, in all three claim reviews consultants advised that tooth 19 appeared to have sufficient tooth structure remaining to provide adequate support and retention for a crown. In keeping with plan provisions, Guardian initially denied coverage of the crown buildup on the Predetermination issued on 7/18/11 and coverage was denied in the subsequent explanation of benefits statements issued on 10/19/11, 4/6/12, and 4/19/12 in response to the treatment being completed.

Petitioner's Argument

In the request for external review, Petitioner's dentist wrote:

[Petitioner] presented to our office, originally in June of 2011. Having not seen a dentist in several years; she presented with many teeth that had gross decay

present [and] entire segments of tooth structure missing. #19 was one of these teeth. It had massive decay from the mesial to the distal; the entire disto buccal quarter of it was gone, due to decay. If the x-ray is studied closely, you can get a sense of this. The tooth required all caries to be removed, a core build-up to restore the foundation of the tooth completely [and] properly [and] then a crown over top.

We want Guardian Ins. to do the right thing [and] pay this claim for the core build-up that was most definitely needed in order to properly restore this tooth.

Commissioner's Review

Guardian covers crowns and crown buildups as major restorative services. The coverage is described on page 125 of the certificate:

Major Restorative Services

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or *injury*, and only when the tooth cannot be restored with amalgam or composite filling material. Posts and cores are covered only when needed due to decay or *injury*....

The question of whether a crown buildup was medically necessary for treatment of Petitioner's condition was presented to an independent organization (IRO) for analysis, as required by section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a doctor of dental medicine in active clinical practice who is a member of the American Dental Society and the Academy of General Dentistry. The IRO reviewer's report included the following analysis and conclusion:

The periapical radiograph of #19 shows little recurrent caries around the existing amalgam restoration. There is no evidence of caries present on the mesial or distal walls of the tooth. The x-ray of #19 shows a fairly intact tooth. The clinical treatment notes were not submitted for review but [REDACTED] provides a description of a tooth with very advanced caries in the request for external appeal form which does not match the x-ray of #19.

The dental literature covers when to do buildups for crowns. [Citations omitted] "When one-half or more of the coronal tooth structure is missing building up the tooth preparations by placing bonded composite is the state of the art." [Citation omitted]

Guardian provides coverage 'only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.' In this instance, tooth #19 does not meet this requirement.

It is the recommendation of this reviewer that the denial issued by Guardian Life Insurance Company of America for the crown buildup on tooth #19 be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner accepts the recommendation of the IRO and finds that the crown buildup on tooth #19 was not medically necessary.


V. ORDER

The Commissioner upholds Guardian's April 5, 2012 final adverse determination. Guardian is not required to provide coverage for the crown buildup on tooth #19.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this order may seek judicial review no later than 60 days from the date of this order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Office of Financial and Insurance Regulation, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner

For the Commissioner:


Annette E. Flood
Chief Deputy Commissioner